IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI.

CRIMINAL WRIT PETITION NO. 19 OF 2003

1. Mrs Karishma Kamlesh Naik,

2. Mrs. Richa Rajkumar Naik,

3. Mrs. Poonam Ravindra Naik,

all residing at House No. 486,
Vodlembhatt, Taleigao, Ilhas Goa
(Tel. 2231148).

V e r s u s

1. Government of Goa,
Secretary, Secretariat, 403001 (Goa).

2. Secretary,
Home Department, Govt. of Goa.
Secretariat, Panaji, 403 001 (Goa).

3. Director General of Police,
State of Goa, Police H.Q. Panaji,
403 001 (Goa).

4. Shri Salim Shaik,
Police Inspector.

5. Shri Channappa @ Chetan L. Patil,
Police Sub-Inspector.

6. Shri Rajan Nigalye,
Police Sub-Inspector.

Mr. S. G. Desai, Senior Advocate with Mr. Shivan Dessai, Advocate for the petitioners.

Mrs. A. A. Agni, Amicus Curiae.

Mr. S. K. Kakodkar, Senior Advocate with Mr. S. N. Sardessai, Public Prosecutor for Respondent nos. 1 to 3.

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, Advocate for the Respondent nos. 4 to 6.

CORAM: R. M. S. KHANDEPARKAR
N. A. BRITTO, J.J.

DATE : 6th March, 2006.

JUDGMENT (Per N. A. BRITTO, J.)

Petitioners' Petition dated 02.07.2003, was ordered to be registered as P.I.L as it involved serious issue of violation of human rights and on 04.08.2003 rule was issued.

2. It is necessary to state some facts which are relevant for the disposal of this petition.

3. On or about 16.06.2003, Crime no. 96/03 came to be registered at Panaji Police Station upon a complaint of Antonio Paulo D'

Cruz, under Sections 307, 506 (ii) read with Section 34 IPC and Sections 3 and 25 of the Arms Act against Kamlesh Naik, Nilesh Mangueshkar and Sanjeev Mangueshkar alias Gabba Mangueshkar, all residents of Taleigao, Panaji. The Petitioner Karishma Kamlesh Naik, is the wife of the said Kamlesh Naik while Petitioners no.2 and 3 Mrs. Richa Rajkumar Naik and Poonam Ravindra Naik respectively, are the sisters in law of the said Nilesh Mangueshkar and Sanjeev alias Gabba Mangueshkar and all of them reside in the same house at Taleigao but in different portions. Respondent Salim Shaik, was the Police Inspector at the relevant time in charge of Panjim Police Station, while respondent *C.L. Patil*/Rajan Nigalye, was the Officer investigating the said case. Respondent Rajan Nigalye, it appears, was not even connected with Panjim Town Police Station and was posted elsewhere at the relevant time.

4. The petitioners alleged that on 17.06.2003, about seven to eight Policemen came to their house in search of the said accused and caused damage. However, we are not concerned in this Petition, about the said allegation and the petitioners would certainly be at liberty to seek appropriate remedy as regards to the same. On 24.06.2003, the said accused Kamlesh Naik and Nilesh Naik, surrendered before the J.M.F.C.,

Panaji, and the learned J.M.F.C., was initially pleased to remand the said two accused to judicial custody but after an application for remand was filed, was pleased to remand the said two accused to police custody for two days and again for another two days, which police custody remand was to expire on 29.06.2003. This Petition pertains to the incident which took place on 28.06.2003. The petitioners have alleged that they had gone to lodge a complaint as regards the incident of 17.06.2003, but the Panjim Police Station had refused to entertain their complaint and had been continuously refusing to entertain the same as they were acting on instructions of their local M.L.A., who was also a Minister and that they had tried to approach the Minister but were not granted audience and were told that they having helped his opponent during the last Assembly elections, they should go to him for help. The petitioners alleged that on 28.06.2003 the Panjim Police apparently acting at the behest of the said Minister, stripped Kamlesh Naik and Nilesh Mangueshkar off their shirts and pants, tied their hands at their back and paraded them in their underwear in Taleigao area with the said Minister overseeing the same from some private car from a distance and, therefore, it was apparent that the said Minister was personally seeing to it that his instructions were followed by the police. The petitioners alleged that because of the said inhuman treatment meted

out to the said Kamlesh Naik and Nilesh Mangueshkar on 28.06.2003, they approached the S.D.P.O., Shri Waman Tari and D.I.G., Shri Karnal Singh, who pleaded helplessness and, therefore, on 29.06.2003, they went for a meeting organised by a private institution, which was attended by the then Chief Minister of Goa, and at the said meeting, at the behest of a city lawyer, Shri Satish Sonak, the petitioner no.1 narrated the incident as regards to the damage to their house whereupon the said Advocate Satish Sonak pleaded with the said Chief Minister to order a judicial inquiry but the Chief Minister is stated to have said that a judicial inquiry would not serve any purpose, etc. The petitioners contending that the illegalities committed by the police were being refused to be looked into and the Chief Minister having said what he allegedly did, they had no other option but to approach this Court with this Petition.

5. It does appear that the petitioners' complaint to the D.I.G., Shri Karnal Singh, was entertained. This was reported on the daily newspaper '*Gomantak Times-Weekender*' on 29.06.2003 and what transpired at the said meeting was reported by daily '*Herald*' on 30.06.2003 and, it also appears that, D.I.G. Shri Karnal Singh, directed Dy. S.P. Shri Waman Tari to conduct

an inquiry, who submitted a report dated 14.07.2003. After perusal of the said report, this Court was not satisfied with the said report dated 14.07.2003, and for the reasons disclosed in the Order dated 04.08.2003. Therefore, this Court directed the District and Sessions Judge, Panaji, to conduct an inquiry into the allegations made by the petitioners, at the time of issuing rule on 04.08.2003. Subsequently, the said Order was modified and the District and Sessions Judge, Panaji, was directed to issue notice to all parties and to record their statements and submit them to this Court for further directions in the matter.

6. As stated on behalf of respondent Director General of Police, it appears that the inquiry report dated 14.07.2003, did reveal certain lapses on the part of the police and, therefore, it was decided to transfer all the six police officers including P.I. Shri Salim Shaik, P.S.I. Shri Rajan Nigalye and P.S.I. Shri C. L. Patil and it was ordered to initiate disciplinary proceedings against the said investigating officer P.S.I. Shri Rajan Nigalye and P.I. Shri Salim Shaik, in charge of the Police Station. The petitioner no.1, in her affidavit dated 09.08.2005, has made an allegation that no disciplinary

proceedings were initiated against P.I. Salim Shaik and P.S.I. Rajan Nigalye as ordered and, in fact, P.S.I. Rajan Nigalye, was promoted to Inspector of Police, though he was reverted subsequently and, P.S.I. C. L. Patil, was promoted as Inspector of Police.

7. The learned Sessions Judge, by his report submitted on 03.11.2003, submitted along with it five statements recorded of the petitioners as well as both the said accused namely Kamlesh Naik and Nilesh Mangueshkar, eleven affidavits of police officials including that of the P.I. Salim Shaik and as many as 39 affidavits of the members of the public.

8. As far as the incident of parading is concerned, there is no dispute that both the said accused Kamlesh Naik and Nilesh Mangueshkar were taken out of the Police lock-up and in handcuffs and, according to Police Inspector Salim Shaik, they were taken out because they volunteered to disclose the places of their hideouts after commission of the offence and they were so taken in order to conduct the panchanama. The handcuffing of the said accused is sought to be justified on the ground that at the time of elections, Taleigao was declared as hypersensitive area; the accused were

hailing from the said area and were actively involved in criminal activities and, therefore, they were handcuffed as a matter of precaution anticipating high risk of untoward incident; that the chances of the accused slipping out from their custody and abduction was also anticipated and, considering that the police custody was to expire on the next day and that it was dark and late in the day, they decided to take the accused immediately to Taleigao. The handcuffing is also sought to be justified on the ground that it was a 4th Saturday and was a Court holiday and it was too late to call on the Magistrate to seek the requisite permission for handcuffing and due to paucity of time, they immediately decided to visit the places which the accused had offered to show. It has also been stated by respondent Police Inspector Shri Shaik that the said accused then showed to them in the presence of Panchas, places of their hideouts, etc. The affidavit of Police Inspector Shri Salim Shaik clearly shows that he, as an Officer in charge of the Police Station, was fully aware that permission of a J.M.F.C was required to be taken before handcuffing an accused. Indeed, the Supreme Court in the case of ***Prem Shankar Shukla v. Delhi Administration (AIR 1980 S.C. 1535)*** had, inter alia, ordered that:

"Handcuffing is prima facie inhuman, and, therefore, unreasonable, is over-harsh and at the first flush, arbitrary".

"that an accused is involved in over a score of cases is no ground for handcuffing the prisoner. Unless there be reasonable exception of violence or attempted to be rescued, the prisoner should not be handcuffed."

"there are other measures whereby an escort can keep a safe custody of a detenu without the indignity and cruelty implicit in handcuffs or other iron contraptions. Indeed, binding together either the hands or the feet or both has not merely a preventive impact, but also a punitive hurtfulness".

"since there are other ways of ensuring security, it can be laid down as a rule that handcuffs or other fetters shall not be forced on the person of an undertrial prisoner ordinarily".

"It is brutalising to handcuff a person in public and so is unreasonable to do so. Of course, the police escort will find it comfortable to fetter their

charges and be at ease but that is not a relevant consideration".

"If a few more guards will suffice, then no handcuffs. If a close watch by armed policemen will do, then no handcuffs. If alternative measures may be provided, then no iron bondage. This is the legal norm".

"The nature of the accusation is not the criterion. The clear and present danger of escape breaking out of the police control is the determinant, and for this there must be a clear material, not glib assumptions".

"The conclusion flowing from these considerations is that there must first be well grounded basis for drawing a strong inference that the prisoner is likely to jump jail or break out of custody or play the vanishing trick. The belief in this behalf must be based on antecedents which must be recorded and proneness to violence must be authentic. Vague surmises or general averments that the undertrial is a crook or desperado, rowdy or maniac, cannot suffice. In short, save in rare cases of concrete proof readily available of the

> dangerousness of the prisoner in transit – the onus of proof of which is on him who puts the person under irons – the police escort will be committing personal assault or mayhem if he handcuffs or fetters his charge. It is disgusting to see the mechanical way in which callous policemen, cavalier fashion, handcuff prisoners in their charge, indifferently keeping them company assured by the thought that the detainee is under iron restraint."

9. The Apex Court in the case of ***Citizens for Democracy (1995 (3) S.C.C. 743),*** had issued certain directions and some of them are as follows:-

> ".....The handcuffs or other fetters shall not be forced on a prisoner – convicted or undertrial – while lodged in a jail anywhere in the country or while transporting or in transit from one jail to another or from jail to Court and back. The police and the jail authorities, on their own, shall have no authority to direct the handcuffing of any inmate of a jail in the country or during transport from one jail to another or from jail to Court and back".

"Where the police or jail authorities have well-grounded basis for drawing a strong inference that a particular prisoner is likely to jump jail or break out of the custody then the said prisoner be produced before the Magistrate concerned and a prayer for permission to handcuff the prisoner be made before the said Magistrate. Save in rare cases of concrete proof regarding proneness of the prisoner to violence, his tendency to escape, he being so dangerous/desperate and the finding that no other practical way of forbidding escape is available, the Magistrate may grant permission to handcuff the prisoner".

"In all the cases where a person arrested by police is produced before the Magistrate and remand – Judicial or non-judicial is given by the Magistrate, the person concerned shall not be handcuffed unless special orders in that respect are obtained from the Magistrate at the time of the grant of the remand."

"All ranks of police and the prison authorities to meticulously obey the above mentioned directions, and in violation by any rank of police

> in the country or member of the jail establishment shall be summarily punished under the Contempt of Courts Act apart from other penal consequences under the law".

10. A reference to the case of ***Sunil Gupta & Ors. v. State of M.P. & Ors. ((1990) 3 S.C.C. 119),*** will also not be out of context. In this case, the Apex Court has stated that when a person is remanded by a judicial order by a competent Court, that person comes within the judicial custody of the Court and taking of that person from a prison to the Court or back from Court to the prison by the escort party is only under the judicial orders of the Court and even if extreme circumstances necessitate the escort party to bind the prisoners in fetters, the escort party should record the reasons for doing so in writing and intimate the Court so that the Court considering the circumstances either approves or disapproves the action of the escort party and issues necessary direction. (emphasis supplied).

11. In the above background, we have heard the learned Senior Counsels on behalf of the parties at length as well as Mrs. Agni, the learned Amicus Curiae. Shri Dessai, the learned Senior Counsel appearing on behalf of the petitioners, has submitted, that the material on record is more

than sufficient to conclude that there has been violation of Article 21 of the Constitution of the said two accused and for suitable action to be taken by this Court for the said violation. Shri Dessai, has further submitted that the fact that the said police officials were transferred on account of their involvement in the said incident of parade, is sufficient proof that the said accused were paraded as alleged by the petitioners. Shri Dessai further submits that the affidavits recorded by the learned Sessions Judge, of about forty persons, clearly disclose that the said accused were paraded and against the said forty persons, none have stated to the contrary. As per Shri Dessai, the said affidavits are sufficient pleadings to dispose of the present petition.

12. Shri Lotlikar, the learned Senior Counsel on behalf of respondent nos. 4 to 6, has submitted that the said affidavits recorded by the learned Sessions Judge, cannot be looked into because no opportunity was given to the said respondents to cross examine and controvert the facts stated by them. Shri Lotlikar, the learned Senior Counsel has submitted that the petition filed by the petitioners, when compared to the affidavits subsequently filed by them before the learned Sessions Judge, shows that the petitioners have indulged in embellishment and exaggeration

and, in such a situation, it would be unsafe to rely upon the affidavits filed by them before the learned Sessions Judge. Shri Lotlikar has submitted that though the respondents have admitted about the handcuffing, the explanation given by them, per se, could not be rejected outright. It is the submission of Shri Lotlikar that it would be hazardous for this Court to arrive at any conclusion based on the affidavits of the petitioners and the said accused given before the learned Sessions Judge, who are in the habit of exaggerating their versions.

13. Shri Kakodkar, the learned Senior Counsel appearing on behalf of respondent nos. 1 to 3 has submitted that the grievances of the petitioners could be best looked into by the Human Rights Court constituted under Section 30 of the Human Rights Act, 1993, or by the National Human Rights Commission, in the event there is no State Commission constituted under the said Act. Shri Kakodkar, submits that the limitation provided to approach the National Human Rights Commission, will not come in the way of the petitioners in the event this petition is forwarded by this Court to the said National Human Rights Commission. Shri Kakodkar has submitted that after the enactment of the Protection of Human Rights Act, 1993, this Court, ought not to entertain

individual grievances of violation of human rights and the parties should be left to seek their remedies before the Human Rights Court or the National Human Rights Commission. As per Shri Kakodkar, the petitioners approached this Court only with a view to put pressure upon the police so that obtaining of bail was facilitated. It is the submission of Shri Kakodkar that in this petition, there is no public interest involved. Shri Kakodkar has also submitted that, prima facie, evidence produced by or on behalf of the petitioners, may at the most, be sufficient only to order further inquiry into the matter. Shri Kakodkar, has submitted that the Investigating Officer, was the best Judge to assess the situation and order the handcuffing of the said two accused and, in any event, it was a bonafide exercise of power, though wrongly exercised.

14. We have considered the submissions made. We are unable to accept the submissions of learned Senior Counsels Shri Lotlikar and Shri Kakodkar.

15. We have already elaborately set out herein above, how this petition came to be registered as a P.I.L, and as then stated by the Division Bench of this Court, it was registered with a view to address to the issues

arising out of gross violation of human rights by the police as well as inaction on the part of the higher police authorities including the highest executive authority of this State and this Court having entertained the petition in public interest and issued rule, it would be improper after a lapse of almost three years to shut the doors of this Court and direct that the petitioners should seek reliefs elsewhere or approach either the Human Rights Court or for that matter, the National Human Rights Commission. In our view, the petition can be decided and adequate reliefs granted on the basis of the material available on record in view of the admission that the said two accused were handcuffed and the explanation for the handcuffing, as we shall show little later, being wholly untenable and nothing but a glib talk, if we may use that expression, to cover up the said handcuffing. In other words, once handcuffing is admitted, parading can be inferred. We need not go to the statements recorded by the learned Sessions Judge except those affidavits submitted by the respondents themselves, particularly the affidavit of Police Inspector, Salim Shaik.

16. First of all, we must refer to the affidavit filed on behalf of respondent nos. 1 to 3, in which, the Deputy Inspector General of Police has clearly admitted that the report submitted by the Sub-divisional Police

Officer, dated 14.07.2003, did reveal certain lapses on the part of the police and, therefore, they were transferred. Although disciplinary proceedings against P.S.I Rajan Nigalye, the Investigating Officer and P.I. Salim Shaik, the Police Inspector in charge of Panjim Police Station, were ordered to be initiated, there is no whisper from Senior Counsel Shri Kakodkar, as to what happened to the said disciplinary proceedings and, we can only conclude that the respondent nos. 1 to 3 are really not interested in taking any action against the said P.S.I. Nigalye and P.I. Salim Shaik and are only dragging their feet. If certain lapses were revealed then it was appropriate that the respondent State took disciplinary action against the guilty Police Officers, which has not been done till date. In our view, transfer of the said Police Officers was not the remedy. Remedy lay is taking disciplinary action, if found guilty. As already stated, handcuffing of the said two accused is admitted and from the facts disclosed, it can be certainly established that the said two accused were paraded and not necessarily in connection with investigations but for extraneous reasons. No doubt, the said two accused had a rather colourful past in that accused Nilesh V. Mangueshkar had four offences registered against him apart from a Chapter case but they pertained to the years 1998 and the year 1999, respectively. Likewise, against accused Kamlesh Naik, there were four offences registered but the

last was of the year 1993 and two Chapter cases of the year 1994-95. However, it is an admitted position that both the said accused had voluntarily surrendered before the Court on 24.06.2003 and, thereafter, were taken by the police to conduct a recovery panchanama on 25.06.2003, when it is alleged that at the instance of accused Kamlesh, a danda was recovered and at the instance of accused Nilesh, a knife/sword was recovered. There has been no explanation why the so-called hideout panchanama for which the accused were allegedly taken on 28.06.2003, was not conducted at the same time or on the same day when said panchanama of recovery under Section 27 of the Evidence Act was conducted on 25.06.2003. The accused were also taken on 26.06.2003 for a remand and it is not the case of respondent nos. 4 to 6, that on the aforesaid two occasions, the said two accused had misbehaved or attempted to free from custody and were required to be handcuffed. We are also unable to understand as to why the P.S.I. had to drive the jeep himself. The petitioners have alleged that the said accused were paraded in underwear. We see from the arrest panchanama that both the accused were wearing jean pants and it has been now stated on behalf of respondent nos. 4 to 6, that at the time of the said hideout panchanama, they were wearing shorts without explaining as to when the said accused were provided with the

shorts. There is no contemporary record produced to show that both the said accused were provided shorts after they had changed their jeans pants. The affidavit of Police Inspector, Salim Shaik, clearly discloses that the Police Officers were fully aware of the directions issued by the Hon'ble Supreme Court in the case of ***Citizens for Democracy*** *(supra),* and yet, chose to violate the same in letter and spirit. That the weather was gloomy or that it was getting dark, as sought to be projected by Police Inspector Salim Shaik, had nothing to do with the handcuffing of the accused. There is also no explanation as to why towards the end of the day on ~~24~~ 28.06.2003, that suddenly a decision was taken to carry out the said hideout panchanama. The hideout panchanama is something, which is unheard of in investigation of criminal cases in as much as even if an accused points out to a place as a place where he was hiding, it can have no relevance in a criminal trial. If a hideout panchanama was so necessary, there is no explanation as to why it was not carried out at Calangute where the said accused were also stated to have hidden themselves. The fact that Taleigao was declared as a hypersensitive area for the purpose of the elections held in June, 2002, is also not convincing because the heat which is sometimes generated during the time of elections, is not expected to stay for a whole year and, in any event, it must be observed that the said two

accused were earlier taken to Taleigao and presumably without putting any handcuffs. If at all it was a Saturday and a Court holiday, the said two accused could have been taken at any time to the residence of the Magistrate apart from the fact that the Magistrates are also known to do roster duty in the morning session on holidays. It is also not the case of the respondents that they had intimated the J.M.F.C. on 29.06.2002, when they were produced, about the said handcuffing, as contemplated in the case of ***Sunil Gupta*** (supra). The explanations for handcuffing given are nothing but a sham and are only excuses put forward on behalf of respondent nos. 4 to 6 in order to justify the handcuffing of the said two accused inspite of knowing fully well the directions issued by the Hon'ble Supreme Court in the case of ***Citizens for Democracy*** (supra). They are not at all convincing and, therefore, have got to be rejected and after the same are rejected, what remains is the fact that the accused were paraded with handcuffs by respondent nos. 4 to 6 without any apparent reason and which means that it was done with a view only to humiliate them. There is no contemporaneous record produced by the respondents, which reflects the so-called reasons justifying their action of handcuffing, apart from the fact that neither prior or post Magisterial permission was not taken. We would not be concerned in this petition, at whose instance the said parading was done.

17. The Apex Court in the case of ***Bandhua Mukti Morcha v. Union of India & Ors. ((1984) 3 S.C.C. 161)***, has stated that it is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by this Court in ***Francis Mullin's case ((1981) 1 S.C.C. 608),*** to live with human dignity free from exploitation. This right to live with human dignity enshrined in Article 21 of the Constitution derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42. The Supreme Court has further stated that where a person or class of persons to whom legal injury is caused by reason of violation of a fundamental right is unable to approach the Court for judicial redress on account of poverty or disability or socially or economically disadvantaged position, any member of the public acting bonafide can move the Court for relief under Article 32 and a fortiorari, also under Article 226, so that the fundamental rights may become meaningful not only for the rich and the well-to-do who have the means to approach the Court but also for the large masses of people who are living a life of want and destitution and who are by reason of lack of awareness, assertiveness and resources, unable to seek judicial redress. We have already indicated the circumstances under which,

this petition came to be admitted by this Court and rule issued.

18. The case of ***State of Maharashtra & Ors. v. Ravikant S. Patil ((1991) 2 S.C.C. 373),*** was a case where the accused was arrested with the allegation of murder and was handcuffed and both his arms were tied by a rope and he was taken through the streets and a Division Bench of this Court has held that the Police Inspector had subjected the undertrial to unwarranted humiliation and indignity and directed him to pay compensation and he was also censured. In Appeal, the Apex Court did not interfere with the direction of payment of compensation but directed that the same be paid by the State and directed the concerned authorities, if they thought necessary, to hold an inquiry and decide whether any further action had to be taken against the said Inspector of Police Shri Prakash Chavan.

19. In the case of ***Fattuji v. The Superintendent of Police, Akola & Ors. (2002 ALL MR (Cri) 107)***, a Division Bench of this Court dealt with the death of an accused in custody and directed the State to compensate the children of the deceased in the sum of Rs. 1,75,000/- and further directed the State not only to take disciplinary proceedings against the Police Officers, who were found responsible for the death of the said accused

Suresh Fattuji Gedam, while in police lock-up but also to prosecute them for having committed offence to which they may be found guilty in the course of investigation by handing over the investigation of the case to an Officer of the rank of D.I.G. Police or above. The Court also directed action to be initiated against all those Police Officers, who were on duty at the Police Station during the time when the deceased was arrested and till his death. In the case of ***Shobha Anil Londase v. State of Maharashtra & Ors. (2003 ALL MR (Cri) 1491)***, another Division Bench of this Court, to which one of us were parties (R. M. S. Khandeparkar, J.) also dealt with custodial death and ordered compensation to be paid in the sum of Rs.3,00,000/- to the petitioner being the husband of the said accused within a period of six weeks and to file compliance report. The Court also directed to hold necessary inquiry to fix up responsibility to contribute the said compensation and ordered to take necessary steps in accordance to the provisions of law to recover the same from those persons and further directed compliance report to be filed within a time prescribed. This Court also directed to initiate necessary proceedings against all the persons responsible for the custodial death of the husband of the petitioner namely Anil Londase and to take legal action against those persons and directed that compliance report be filed within the stipulated time.

20. In the last two cases, referred to herein above, this Court followed the principle laid down by the Apex Court in ***Nilabati Behera v. State of Orissa (AIR 1993 (2) S.C.C. 746)***, that enforcement of constitutional right and grant of redress embraces award of compensation as part of legal consequences of its contravention and award of compensation is a remedy available in public law, based on strict liability for contravention of fundamental rights.

21. In the case at hand, although respondent nos.1 to 3 came to the conclusion, on an inquiry report submitted by the Sub-divisional Police Officer, that there were certain lapses on the part of the police and, accordingly, transferred all the six Police Officers/Officials, nothing happened as far as the disciplinary proceedings ordered to be initiated against P.S.I. Rajan Nigalye and P.I. Salim Shaik and it has been alleged by the petitioners that inspite of the said Order to initiate disciplinary proceedings, at one stage, P.S.I. Rajan Nigalye was promoted and then again reverted. The handcuffing of the said two accused has been admitted. The reasons assigned for the said handcuffing cannot at all be accepted and they are only a ruse to justify the actions of respondent nos. 4 to 6 and the

parading of the said two accused in handcuffs, which was done only to humiliate them. We, therefore, direct the respondent State to compensate each of the said two accused for violation of their human rights and consequent humiliation meted out to them by parading them in handcuffs, in the sum of Rs.15,000/- each. We further direct respondent no.3 to file a compliance report within a period of six weeks from today, as regards payment of compensation. We direct the respondent State to hold and complete the disciplinary proceedings against respondent nos. 4 to 6, Police Officers, within a period of six months from today and file compliance report within two weeks thereafter. Respondent State will be at liberty to recover the said compensation from respondent nos. 4 to 6 as deem fit and in accordance with law. We make it clear that no observations made herein will come in the way of prosecution of the said accused in Crime No.96/03.

In view of the above, Rule is made absolute in terms of above directions with costs of Rs.5,000/-.

R. M. S. KHANDEPARKAR, J.

N. A. BRITTO, J.

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